

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OTHELL BICKERSTAFF and
SHRINK WRAP INTERNATIONAL,
INC.,

Plaintiffs,

v.

DR. SHRINK, INC. and
MICHAEL STENBERG,

Defendants.

Case No. 1:04-cv-712

Hon. Richard Alan Enslen

ORDER

On or about June 2004, the present action was filed in the Eastern District of Michigan asserting a single count of patent infringement, together with a variety of other federal and state claims.

On October 25, 2004, this action was transferred from the Eastern District of Michigan to this District.

On February 8, 2005, United States Magistrate Judge Ellen S. Carmody issued a Case Management Order requiring the filing of *Markman* briefs (pertaining to patent claim construction) on or before August 1, 2005. In place of such, the parties filed a Joint Statement of Claim Construction Issues (Dkt. No. 53). The Statement agrees that claim construction is unnecessary, though the parties' rationales for the agreement are different. Plaintiffs assert that claim construction is unnecessary because it has already been completed by the Federal Circuit Court of Appeals. Defendants assert that claim construction is unnecessary due to the prior settlement agreement between the parties and the subject of this litigation. (*See* Joint Statement, 1.)

Upon review of the Joint Statement;

IT IS HEREBY ORDERED that the Joint Statement (read as a stipulation that *Markman* briefing is unnecessary) (Dkt. No. 53) is **APPROVED** with the exception that the Court reserves judgment pending review of the briefing as to Defendants Michael Stenberg and Dr. Shrink, Inc.'s Motion for Summary Judgment (Dkt. No. 54) and such other summary judgment motions as may be filed, to require later filing of additional *Markman* briefs.

Dated in Kalamazoo, MI:
September 12, 2005

/s/Richard Alan Enslen
Richard Alan Enslen
Senior United States District Judge